

Message Text

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ACTION EUR-12

INFO OCT-01 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00
AID-05 SS-15 STR-07 ITC-01 TRSE-00 USIA-06 PRS-01
SP-02 SOE-02 OMB-01 DOE-11 /115 W
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R 021610Z FEB 78
FM AMEMBASSY BRUSSELS
TO SECSTATE WASHDC 4636
INFO ALL EC CAPITALS
AMEMBASSY PARIS
USMISSION GENEVA

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USEEC

PASS AGRICULTURE ELECTRONICALLY
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E.O. 11652: N/A
TAGS: EAGR, EEC
SUBJ: PROPOSED EC DIRECTIVE ON FOODSTUFFS LABELING--
UPDATE

REF: (A) 76 EC A-203, (B) 77 EC A-68, (C) 77 EC A-151,
(D) 77 BRUSSELS 19257

1. SUMMARY: MISSION HAS OBTAINED RECENTLY AMENDED
TEXT OF EC PROPOSAL ON FOODSTUFFS LABELING. PERMDEL
SOURCE BELIEVES THAT FULL SETTLEMENT OF OUTSTANDING
ISSUES POSSIBLE BY MID-YEAR. AMENDED PROPOSAL WOULD
REQUIRE MANUFACTURER TO LABEL FOODSTUFFS WITH WORDS
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"BEST BEFORE END . . ." DATE SPECIFIED WOULD VARY
IN RELATION TO EXPECTED SHELF LIFE. PROPOSAL WOULD
ALSO EXTEND COVERAGE TO FOODSTUFFS SOLD TO RESTAURANTS,
INSTITUTIONS, ETC. ALCOHOLIC BEVERAGES WOULD BE EXEMPT
FROM INGREDIENT LABELING AS WOULD A LIMITED NUMBER OF
OTHER PRODUCTS. END SUMMARY.

2. THE COMMISSION PROPOSAL FOR THE HARMONIZATION OF MEMBER STATE LAWS REGULATING THE LABELING, PRESENTATION AND ADVERTISING OF FOODSTUFFS FOR RETAIL SALE WAS FIRST SUBMITTED TO THE COUNCIL IN MARCH 1976 (REF. A). SINCE ITS DEBUT ALMOST 2 1/2 YEARS AGO, THE PROPOSAL HAS BEEN REVIEWED BY NUMEROUS CONSUMER AND TRADE INTERESTS, INCLUDING THE ECONOMIC AND SOCIAL COMMITTEE OF THE EC (REF. B) AND HAS UNDERGONE MORE THAN A HALF DOZEN INTERNAL WORKING GROUP REVISIONS (REF. C). THE MOST RECENT WORKING PARTY REVIEWS TOOK PLACE IN LATE NOVEMBER 1977 AND IN MID-JANUARY OF THIS YEAR.

3. THE MISSION HAS OBTAINED, ON A CONFIDENTIAL BASIS, THE AMENDED PROPOSAL RESULTING FROM THE NOVEMBER MEETING. COPIES ARE BEING SENT TO MESSRS. SABATINI (FAS/USDA) AND CASEY (EUR/RPE/STATE). OUR SOURCE TELLS US THAT WHILE SOME IMPORTANT REDRAFTING WITH REGARD TO DATE MARKING (SEE PARAGRAPH 4A) OCCURRED IN MID-JANUARY (TEXT NOT YET COMPLETED FROM JANUARY MEETING), THE NOVEMBER VERSION OF THE PROPOSAL REMAINED ESSENTIALLY UNCHANGED. SOURCE ALSO FELT THAT MOST OUTSTANDING ISSUES COULD LIKELY BE RESOLVED IN ONE OR POSSIBLY TWO MORE WORKING GROUP SESSIONS AND THAT COUNCIL APPROVAL WOULD BE POSSIBLE BEFORE JULY OF THIS YEAR. SOURCE CAUTIONED, HOWEVER, THAT THERE WERE STILL A FEW AREAS OF DISAGREEMENT AMONG MEMBER DELEGATIONS.

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IT SEEMS, FOR EXAMPLE, THAT MEMBER STATES ARE STILL AT ODDS OVER CERTAIN DETAILS REGARDING DATE MARKING FOR THE MORE PERISHABLE FOOD ITEMS. THERE IS ALSO SOME QUESTION AS TO THE TIMEFRAME FOR FULL IMPLEMENTATION OF THE DIRECTIVE'S PROVISIONS.

4. SEVERAL IMPORTANT ASPECTS OF THE AMENDED VERSION OF THE COMMISSION PROPOSAL ON LABELING (NOVEMBER REVISION) WHICH DIFFER FROM EARLIER PROVISIONS ARE DETAILED BELOW:

A. PRODUCT DURABILITY: THE NEW VERSION OF THE PROPOSAL WOULD DEFINE A MINIMUM SHELF-LIFE DATE AS THE DATE "UNTIL WHICH THE FOODSTUFF RETAINS ITS SPECIFIC PROPERTIES WHEN PROPERLY STORED." DATE MARKING WOULD REQUIRE THE MANUFACTURER TO PLACE ON THE LABELING OF FOODSTUFFS THE WORDING "BEST BEFORE END . . ." ACCOMPANIED EITHER BY THE DATE ITSELF (DAY, MONTH AND YEAR IN UNCODED CHRONOLOGICAL ORDER) OR A REFERENCE TO WHERE THE DATE IS GIVEN ON THE LABEL. THIS APPROACH DIFFERS FROM THE PROVISIONS OF THE MARCH 1976 PROPOSAL WHICH CARRIED THE LANGUAGE "WILL KEEP UNTIL . . ." FOR FOODS WITH AN EXPECTED SHELF LIFE OF FROM 3 TO 18 MONTHS,

ONLY MONTH AND YEAR DATE MARKINGS WOULD BE REQUIRED. FOR A SHELF-LIFE EXCEEDING 18 MONTHS, THE MANUFACTURER WOULD BE REQUIRED TO INDICATE THE YEAR ONLY. SOURCE TOLD US THAT DURING THE JANUARY MEETING, IN AN EFFORT TO SATISFY MEMBER STATE INTERESTS, THE CHOICE OF THE WORDING "BEST BEFORE END . . ." WAS MADE TO APPLY TO ALL FOODS, REGARDLESS OF DURABILITY. IT SHOULD BE NOTED THAT THIS REPRESENTS A DEPARTURE FROM THE NOVEMBER VERSION OF THE PROPOSAL BEING FORWARDED TO WASHINGTON WHICH MADE A DURABILITY LABELING DISTINCTION BETWEEN VERY PERISHABLE (LESS THAN A 10-DAY SHELF LIFE) AND OTHER FOODSTUFFS. A FURTHER REWORDING OF THE PHRASE TO DESCRIBE THE DURABILITY OF HIGHLY PERISHABLE FOODSTUFFS

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CAN BE EXPECTED, ACCORDING TO PERMDEL SOURCE. HOWEVER, SOURCE STRESSED THAT THERE WAS NO BASIC DISAGREEMENT IN PRINCIPLE THAT SOME INDICATION OF MINIMUM DURABILITY SHOULD IN ANY CASE BE REQUIRED. IT IS CURRENTLY UNDERSTOOD THAT INDIVIDUAL MEMBER STATES WOULD RETAIN THE RIGHT TO PROHIBIT THE MARKETING OF A PRODUCT AFTER EXPIRATION OF THE MINIMUM SHELF-LIFE DATE. THE PROPOSAL DOES, HOWEVER, LIST SEVERAL PRODUCTS THAT WOULD NOT BE SUBJECT TO DATE MARKING. THESE INCLUDE FRESH FRUIT AND VEGETABLES (INCLUDING POTATOES NOT PEELED, CUT OR SIMILARLY TREATED), ALL WINES AND BEVERAGES CONTAINING MORE THAN 12 PERCENT ALCOHOL, BAKED OR PASTRY PRODUCTS

(NORMALLY CONSUMED WITHIN 36 HOURS OF THEIR MANUFACTURE),
VINEGAR, COOKING SALT, SOLID SUGAR AND CONFECTIONERY
PRODUCTS CONSISTING OF FLAVORED AND/OR COLORED SUGARS.

B. PRODUCT COVERAGE: AT MEMBER STATE DISCRETION,
PRODUCT COVERAGE COULD EXTEND TO INCLUDE FOODSTUFFS
INTENDED FOR USE IN RESTAURANTS, HOSPITALS, CANTEENS
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AND OTHER SIMILAR ESTABLISHMENTS.

C. INGREDIENT LABELING:

(1) AS REPORTED IN REF. D, PROVISIONS OF THIS
PROPOSAL WOULD NOT APPLY TO ALCOHOLIC BEVERAGES (WITH
AN ALCOHOLIC CONTENT EXCEEDING 2 PERCENT BY VOLUME). THE
PROPOSAL WOULD, HOWEVER, DIRECT THE COUNCIL TO ACT ON A
COMMISSION PROPOSAL TO DETERMINE THE RULES FOR INGREDIENT
LABELING OF ALCOHOLIC BEVERAGES WITHIN A PERIOD OF
4 YEARS FOLLOWING OFFICIAL PUBLICATION OF THIS DIRECTIVE.

(2) THE NOVEMBER REVISION ALSO PROVIDES FOR A
NUMBER OF OTHER EXCEPTIONS TO INGREDIENT LABELING
REQUIREMENTS. INGREDIENTS NEED NOT BE LISTED IN THE
CASE OF FRESH FRUIT AND VEGETABLES (WHICH HAVE NOT
BEEN PEELED, CUT OR SIMILARLY TREATED), AERATED WATERS,
FERMENTED VINEGARS (DERIVED EXCLUSIVELY FROM A SINGLE
BASIC PRODUCT), CERTAIN DAIRY PRODUCTS (I.E., CHEESE,
BUTTER, FERMENTED MILK AND CREAM) PROVIDED THAT NO
INGREDIENT OTHER THAN LACTIC PRODUCTS, ENZYMES OR
MICROORGANISM CULTURES ESSENTIAL TO MANUFACTURE OR
SALT HAVE BEEN ADDED. ALSO EXEMPTED ARE PRODUCTS
CONSISTING OF A SINGLE INGREDIENT.

D. OTHER: REVISED PROPOSAL WOULD RETAIN THE
REQUIREMENT THAT NET WEIGHT AS WELL AS DRAINED WEIGHT
MARKINGS (FOR SOLID PRODUCTS SOLD IN LIQUID) BE SHOWN
ON THE LABEL. NET QUANTITY MARKINGS WOULD NOT BE
REQUIRED FOR FOODSTUFFS WHICH ARE SUBJECT TO CONSIDERABLE
LOSS IN THEIR VOLUME OR MASS AND WHICH ARE SOLD BY
NUMBER OR WEIGHED IN THE PRESENCE OF THE PURCHASER.
NET QUANTITY MARKING REQUIREMENTS WOULD ALSO BE WAIVED
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IN THE CASE WHERE THE NET QUANTITY OF CONTENTS IS LESS
THAN 5 GRAMS OR 5 MILILITERS (EXCEPT SPICES AND HERBS).

5. IN VIEW OF POSSIBILITY OF COUNCIL APPROVAL OF THE
LABELING DIRECTIVE WITHIN THE NEXT 6 MONTHS, MISSION
RECOMMENDS THAT LATEST DRAFT BE REVIEWED WITH APPROPRIATE
U.S. INDUSTRY OFFICIALS. HINTON

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